



#30 1643

PATENT
ATTORNEY DOCKET NO. 01997/202002

Certificate of Mailing: Date of Deposit: June 17, 2003

I hereby certify under 37 C.F.R. § 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Tracey Simmons
Printed name of person mailing correspondence

Tracey Simmons
Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	H. Robert Horvitz et al.	Art Unit:	1643
Serial No.:	09/087,136	Examiner:	Karen Canella
Filed:	May 28, 1998	Customer No.:	21559
Title:	NUCLEIC ACIDS ENCODING LIN-37 AND USES THEREOF		

RECEIVED

JUN 24 2003

TECH CENTER 1600/2900

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW NOTICE OF ABANDONMENT

Under 37 C.F.R. § 1.8(b) and 1.181, Applicants hereby petition to have the Notice of Abandonment that was mailed in connection with the above-captioned case on June 2, 2003 withdrawn. A copy of the Notice is enclosed. According to the Notice, the application was abandoned under 37 C.F.R. § 1.135 for applicant's failure to reply to an Office Action that was mailed on October 22, 2002. However, a reply and Petition for Extension of Time was timely filed on March 24, 2003.

The undersigned, Applicant's attorney of record, first became aware of the abandonment on June 2, 2003, upon receipt of the Notice of Abandonment and submits that this petition to withdraw the Notice is being promptly submitted as required by 37 C.F.R. § 1.8(b)(1).

The following documents are submitted under 37 C.F.R. § 1.8(b)(2) as proof that a reply was timely filed on March 24, 2003:

1. A copy of the reply, including an executed certificate of mailing signed by Julie A. Bowen on March 24, 2003.
2. A copy of the Petition for Extension of Time, including an executed certificate of mailing signed by Julie A. Bowen on March 24, 2003, which extended the period for replying to the Office Action for two months.
3. A copy of the postcard that was stamped as having been received by the PTO Mailroom on March 31, 2003.

Applicants submit that the reply was timely filed and request that the Notice of Abandonment be withdrawn.

If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date:

June 17, 2003

Kristina Bieker-Brady

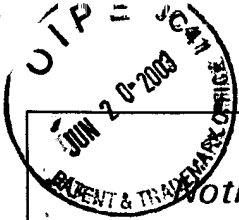
Kristina Bieker-Brady, Ph.D.
Reg. No. 39,109

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110
Telephone: 617-428-0200
Facsimile: 617-428-7045




21559

PATENT TRADEMARK OFFICE



Notice of Abandonment

Application No. 09/087,136	Applicant(s) Horovitz et al	
Examiner Karen Canella	Art Unit 1642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

This application is abandoned in view of:

JUN 24 2003

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on Oct 22, 2002

(a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.

(b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection.

(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).

(c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).

(d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

(a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).

(b) ☐ The submitted issue fee of \$ _____ is insufficient. A balance of \$ _____ is due.

The issue fee required by 37 CFR 1.18 is \$ _____. The publication fee, if required by 37 CFR 1.18(d) is \$ _____.

(c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).

(a) ☐ Proposed new formal drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.

(b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

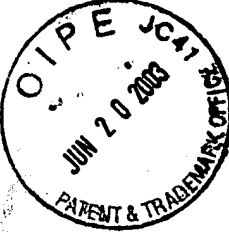
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

Karen A. Canella

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



RECEIVED

JUN 24 2003

TECH CENTER 1600/2900

PATENT
ATTORNEY DOCKET NUMBER: 01997/202002

The U.S. PTO date stamp sets forth the date of receipt of:

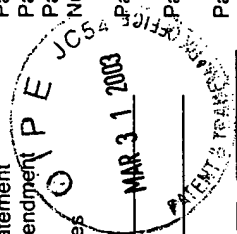
Applicant/Patentee: H. Robert Horvitz et al.

Serial/Patent Number: 09/087,136

Filed/Issued: May 28, 1998

Title: NUCLEIC ACIDS ENCODING LIN-37 AND USES THEREOF

<input type="checkbox"/> Transmittal Letter	Pages: _____	<input type="checkbox"/> Declaration & POA	Pages: _____
<input type="checkbox"/> Notice of Missing Parts	Pages: _____	<input type="checkbox"/> Assignment & Cover Sheet	Pages: _____
<input type="checkbox"/> Reply to Missing Parts	Pages: _____	<input type="checkbox"/> Change of Address	Pages: _____
<input checked="" type="checkbox"/> Reply to Examiner's Action	Pages: 16	<input type="checkbox"/> Small Entity Statement	Pages: _____
<input checked="" type="checkbox"/> Extension of Time	Pages: 2	<input type="checkbox"/> Preliminary Amendment	Pages: _____
<input type="checkbox"/> Notice of Appeal	Pages: _____	<input type="checkbox"/> IDS	Pages: _____
<input type="checkbox"/> Appeal Brief	Pages: _____	<input type="checkbox"/> Cited References	Pages: _____
<input type="checkbox"/> Drawings Formal/Informal	Pages: _____	<input type="checkbox"/> Other	Pages: _____
<input type="checkbox"/> M-Fee Payment	Pages: _____	<input type="checkbox"/> Other	Pages: _____
<input type="checkbox"/> Issue Fee Payment	Pages: _____		
<input checked="" type="checkbox"/> Check	\$: 410.00		
<input type="checkbox"/> Other			



Atty/Secy: KBB/MHE Client/Matter Name: MIT Date: 3-24-03

(see)

CLARK & ELBING

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110

APR 07 2003

RECEIVED

